

Appeals court approves increased Trinity River flows

DAVID KRAVETS
Associated Press

SAN FRANCISCO - A federal appeals court approved a congressional plan to increase flows into the Trinity River to restore fish habitat, reducing water to California farmers and hydroelectric plants.

Most of the water in the Trinity, which originates in Northern California's Trinity Alps and flows west into the Klamath River, has been diverted for decades to service a fast-growing population in a state where much of the water is located far from where people live and farm.

In 1984, Congress mandated the 112-mile-long river's restoration to combat dwindling supplies of salmon, steelhead and other aquatic life. In 2000, after years of studies, the Interior Department approved a plan to increase Trinity water.

The plan was backed by Indian tribes who use the waters for sustenance fishing, while farming and hydroelectric power interests opposed it.

The Trinity is a major artery in the Central Valley Project's system of dams, tunnels, canals and reservoirs that supply 200 water districts for 30 million people, including the agricultural rich Central Valley. It churns turbines for nine power generating stations.

The plan approved Tuesday diverts as much as 9 percent of the water project's capacity, depending on amounts of rain and snow.

The utilities argued the Interior Department's plan would decrease water flows that eventually reach the parched Central Valley, and the government did not study what impact that would have on the millions of water users downstream. A spokesman for 600 California agricultural customers said farmers would likely get less water under the plan.

"That's water that is all part of a flow regime that is an important part of this large, complex interconnected water system," said Tupper Hull of the Westlands Water District, an agricultural water supplier based in Fresno that challenged the plan.

A spokesman for the U.S. Bureau of Reclamation, Jeff McCracken, said the government did not study what, if any, impact the plan would have on farming because the law did not require it.

"It's a fairly significant yield of water out of the system," McCracken said. "If there were an endless supply, this wouldn't have gone to court."

Westlands is considering asking the San Francisco-based 9th U.S. Circuit Court of Appeals to reconsider its ruling, Hull said.

Hydroelectric utilities contended the government should further study the affect on energy production in light of California's energy crisis.

A three-judge 9th Circuit panel, however, was not persuaded, and reversed a lower court ruling that halted portions of the plan. The unanimous court said it was time to complete the "flow plan for the Trinity River."

"Twenty years have passed since Congress passed the first major act calling for restoration of the Trinity River and rehabilitation of its fish populations and almost another decade has elapsed since Congress set a minimum flow level for the river to force rehabilitative action," Judge Alfred Goodwin wrote.

Goodwin said less than 1 percent of California's energy production could be undermined.

The Yurok Tribe, which straddles the Klamath in Humboldt and Del Norte counties downstream of the Trinity before it drains into the Pacific Ocean, celebrated the decision. The state's poorest tribe, which fishes the river for a subsistence living, was hit hard in 2002 when thousands of salmon died because of low flows.

"The fish that use the Klamath also spawn in the Trinity. So a healthy Trinity River is important to a healthy Klamath River," said the tribe's attorney, Scott Williams.

He said in the 1800s, the 5,000-member tribe gave up thousands of acres of land in exchange for a promise that its fishing would be protected.

"It's been decimated by decades of dams, logging and diversions. This decision goes way toward repairing that broken promise," Williams said.

The plan calls for diverting from 368,900 acre-feet of water a year to 815,200 acre-feet, depending on precipitation. Flows would be released from the Trinity Dam at different rates throughout the year to mimic natural flows.

An acre-foot of water is enough to cover an acre of land to a depth of one foot, and contains 325,900 gallons, enough to supply one or two families for a year.

The California Farm Bureau did not immediately comment on the decision.

The case is Westlands Water District v. Interior Department, 03-15194.